

## Herbal medicine and health food shops

In the guide

- Medicines
- Animal products
- Food
- Cosmetic products
- Misleading and illegal claims
- Product safety
- Weights and measures
- Prices
- Trade organisations
- Penalties
- Key legislation

**Note:** although the United Kingdom has left the European Union, certain EU laws (known as 'retained' laws) will still apply until such time as they are replaced by new UK legislation; this means that you will still see references to EU legislation in our guidance.

### This guidance is for England and Wales

Many traditional herbal products (such as Chinese herbal products) are popular with consumers who are looking for products with health benefits. Such products are often on the borderline between regulated categories of goods such as medicines, foods and cosmetics. As different legal requirements apply to these different product types it is important that you are clear about the categories your products fall into. The legal requirements governing these products are enforced mainly by trading standards services and by the Medicines and Healthcare products Regulatory Agency (MHRA).

There are specific requirements for herbal remedies, which are classed as 'medicines' and must be safe. You may also be selling food items, cosmetic products or animal products, all of which have their own legal requirements.

Whether or not your products fall within these categories, it is important to ensure that consumers are not misled about the extent or existence of products' health benefits, and there are some restrictions on claims. There are further requirements in relation to claims made about the product, quantity markings, pricing and consumer rights.

### Medicines

Herbal remedies are medicinal products. They must have a marketing authorisation (or a product licence) unless they meet certain exemptions that allow them to be sold as unlicensed herbal medicines. To meet

the terms of the exemptions, products must be solely plant-based, have no written medicinal indications for use and must not have a trade name. Herbal remedies, even if exempt from licensing, still have to be safe and be labelled in accordance with the Medicines Act 1968.

The primary decision as to whether or not a product is a medicinal product is for the MHRA to make. If you have any doubts about whether the products that you sell are medicines or are exempt from licensing you should contact MHRA.

## Animal products

Strict import controls exist regarding products of animal origin. Products of animal origin include all types of meat and meat products (including poultry), all types of fish and shellfish and products made from them (like oyster sauce), eggs and egg products, wild game, honey, and dairy products. It is recommended that you only purchase food products of animal origin from reputable suppliers that can prove that the food has been legally imported into the UK via proper commercial channels. If you wish to import animal products, your local authority environmental health service should be able to advise you on the current legal situation.

If officers believe an animal product has been imported illegally into the UK, they may take it away for destruction or ask you not to use it until you can prove it has been imported legally. A sample may also be taken of the item. You could be prosecuted for importing animal products illegally.

Some traditional remedies have been found to contain both animal and plant parts from endangered species, in contravention of legislation enforced by a number of bodies, including the police. Should you have any concerns about ingredients, detailed information on endangered species is available on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) website. CITES's main aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Alternatively, you could seek advice from the wildlife crime unit of your local police force or the Animal and Plant Health Agency (APHA) on 03000 200301 (or 0300 303 8268 in Wales).

## Food

The definition of food includes any food, drink or food supplement that is part of the diet. Anything that is not a medicinal product, and is eaten or taken as a drink, is a food. Many of the products you sell are likely to be legally classed as food, particularly prepacked items such as herbal teas.

The Food Safety Act 1990, Regulation (EU) No 1169/2011 *on the provision of food information to consumers*, the Food Information Regulations 2014 and the Food Information (Wales) Regulations 2014 govern, amongst other things, labelling, ingredients and quality. The Act creates specific offences for contaminants in food, false descriptions and misleading claims.

All foods and food supplements must be labelled with certain information in English. Where the food is sold loose, such as Chinese herbs from jars, or is packed by you in the shop for direct sale to your customers, the following details are required:

- a food name that customers can understand, indicating the true nature of the food
- a statement, where applicable, that the product or ingredients have been irradiated or genetically modified (see also 'Genetically modified foods')
- a declaration of the presence of any of the 14 specified allergens (see 'Food allergens & intolerance')

Where the food is 'prepacked', a number of labelling requirements need to be fulfilled (see 'Labelling of

prepacked foods: general', 'Food labelled in a foreign language' and 'Date & lot marking of prepacked food').

Specific guidance on food supplements can be found on the GOV.UK website.

The food label may also make claims about the nutritional properties of the food - for example, 'low fat' - and/or the potential health benefits consuming the food may have. These claims are controlled by Regulation (EC) No 1924/2006 *on nutrition and health claims made on foods*, the Nutrition and Health Claims (England) Regulations 2007 and the Nutrition and Health Claims (Wales) Regulations 2007. For more information see 'Nutrition and health claims'.

If the food (or any advertising for the food) makes a claim that consuming it can treat or be a remedy for cancer, or it gives any advice in connection with the treatment of cancer, this is an offence under the Cancer Act 1939.

## **Cosmetic products**

Regulation (EC) No 1223/2009 *on cosmetic products* defines a cosmetic product as "any substance or mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours". It does not apply to medicinal products, medical devices or biocidal products.

There are particular requirements regarding the importation, manufacture, packaging and labelling of cosmetic products. For further information see 'Cosmetic products'.

## **Misleading and illegal claims**

In addition to the specific controls in food legislation outlined above there are additional controls that apply more generally.

Any claims made about a product must be true and not misleading. This includes oral, written or pictorial claims. In addition, you are required to disclose any adverse information you know about a product if an average consumer would need to know this information to make an informed choice - for example, if it is known to be ineffective for the purposes for which it is commonly bought.

These requirements, which come under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), apply to all products, including but not limited to, medicines, foods, food supplements and cosmetics.

Additionally, as worldwide efforts to control the exploitation of endangered species increase, manufacturers have been known to include illegal ingredients (for example, tiger and bear parts) in products but to remove any references to these ingredients from packaging and advertisements. These manufacturers rely on their customers' knowledge and experience of the products' contents instead. Under the CPRs it is illegal to hide the fact that a product cannot legally be sold.

For more information on the CPRs see 'Consumer protection from unfair trading'.

## **Product safety**

All consumer products (including food and medicines) must be safe.

Products must be sold to customers with appropriate safety information / warnings in English. Such information might include, for example, dosage instructions and possible side effects. They might also include classes of persons for whom the product is unsuitable - for example, pregnant women, children and persons suffering from a particular disorder, such as high blood pressure.

You are strongly advised to obtain products from reputable suppliers and to retain any documentation that you receive from them, such as invoices.

## **Weights and measures**

Prepacked goods, such as food / food supplements / cosmetics, all legally require an accurate quantity marking. This should typically be the weight, volume or number of items in the package. Metric quantities must be used.

If you are selling any products loose (from bulk) by reference to weight, you must use approved weighing equipment bearing appropriate stamps or stickers. Sales must be by reference to metric quantities.

Please see 'Packaged goods: average quantity' and 'Weighing equipment for legal use' and contact your local trading standards service for further advice and assistance with weights and measures issues.

## **Prices**

There is a general requirement to display prices for retail goods on offer; however, if the goods can only be obtained as a result of a service (such as a consultation) there is no need to price the goods. If your services have a 'fixed price' then you must provide your customers with price information (using a price list, for example).

Prices you display must be accurate. It is an unfair commercial practice to give false or deceptive information about the price of goods, to omit material information about the price (such as compulsory additional charges or taxes) or if the value of any 'saving' displayed on a special offer was exaggerated.

See 'Providing price information' for more information.

## **Trade organisations**

You may also wish to seek advice from a trade or practitioner organisation, such as the British Herbal Medicine Association, the Register of Chinese Herbal Medicine or the Association of Traditional Chinese Medicine and Acupuncture (UK).

Please note that a link to an organisation in the list does not imply any approval or warranty as to the standing or capability of that organisation by the Chartered Trading Standards Institute.

## Penalties

Failure to comply with trading standards law can lead to enforcement action and to sanctions, which may include a fine and/or imprisonment. For more information please see 'Trading standards: powers, enforcement & penalties'.

## Key legislation

Cancer Act 1939

Medicines Act 1968

Food Safety Act 1990

Regulation (EC) No 1924/2006 *on nutrition and health claims made on foods*

Nutrition and Health Claims (England) Regulations 2007

Nutrition and Health Claims (Wales) Regulations 2007

Consumer Protection from Unfair Trading Regulations 2008

Regulation (EC) No 1223/2009 *on cosmetic products*

Regulation (EU) No 1169/2011 *on the provision of food information to consumers*

Food Information Regulations 2014

Food Information (Wales) Regulations 2014

Last reviewed / updated: May 2020

## In this update

No major changes

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

© 2021 Chartered Trading Standards Institute

## Source URL:

<https://www.businesscompanion.info/en/quick-guides/miscellaneous/herbal-medicine-and-health-food-shops>